

APPROVED MINUTES  
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	September 2, 2003
Time of Meeting:	6:00 p.m. (Closed Session) 7:00 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

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**ROLL CALL**

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:02 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmembers Gomez (arrived at 6:05 p.m.), Livengood, and Polanski.

**CLOSED SESSION**

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following item listed on the agenda:

**1. CONFERENCE WITH LABOR NEGOTIATOR**

(Pursuant to Government Code Section 54957.6)

Agency Negotiators: Thomas J. Wilson, Eddie Kreisberg, and Cherie Rosenquist

Employee Organizations: LIUNA

Mayor Esteves adjourned the meeting to closed session at 6:03 p.m.

The City Council meeting reconvened at 7:00 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Gomez, Livengood, and Polanski present.

**CLOSED SESSION  
ANNOUNCEMENTS**

There were no closed session announcements.

**PLEDGE**

Mayor Esteves led the Council and audience in the Pledge of Allegiance.

**MINUTES**

MOTION to approve the City Council minutes of August 19, 2003, including joint meeting with the Redevelopment Agency, as submitted.

M/S: Dixon, Polanski.

Ayes: 5

**SCHEDULE**

Vice Mayor Dixon announced that the time for the Civic Center Subcommittee meeting on September 16, 2003, was to be determined.

MOTION to approve the Schedule of Meetings as amended.

M/S: Gomez, Livengood.

Ayes: 5

**PRESENTATIONS**

Mayor Esteves read a Commendation recognizing Michael Nguyen on his achievement of the Rank of Eagle Scout and presented it to Michael. Michael thanked the Mayor and Council for the great honor, stating that he was proud to have grown up in this City. Mayor Esteves recognized Michael's parents who were present in the audience.

Mayor Esteves read a Commendation recognizing Evan Pierce Rosson on his achievement of the rank of Eagle Scout and presented it to Evan. Evan thanked the Council for the commendation, stating that it was a great honor and thanked Troop 164 leaders who helped make this possible. Mayor Esteves recognized Evan's mother Cindy Maxwell who was present in the audience.

Mayor Esteves read a Commendation commending Charles King, Lin Jin, Lloyd Pound, Marina Dee, Olga Saucedo, Samir Brookins, Linda Rabe, Amabel Raynos, Susan Auer, and

Mareile Ogle for demonstrating outstanding civic pride in the submission of logo designs to celebrate the City's 50<sup>th</sup> Anniversary. Mareile Ogle was present to accept her Commendation.

Mayor Esteves read a Commendation recognizing Tamika Taylor for submitting the winning logo design to celebrate the City's 50<sup>th</sup> Anniversary. Ms. Taylor was not present to accept the Commendation.

Mayor Esteves read a proclamation declaring the week of September 15-21, 2003, as "Pollution Prevention Week" in Milpitas and urging citizens and businesses to join in the effort to protect and preserve the environment. The proclamation was accepted by Solid Waste Division employee Leslie Stobbe.

Mayor Esteves read a proclamation honoring Tom Evatt, Milpitas' first Mayor, who was celebrating his 90<sup>th</sup> birthday, and proclaiming September 2, 2003, as "Tom Evatt Day" in Milpitas. The proclamation spoke to Mr. Evatt's service to the community as Mayor from incorporation in 1954 to 1956; service as Councilmember from 1956 to 1962; his service as a member of the Milpitas Development Association from 1947 until 1954 to work out issues of sewer and water; his travels to Sacramento in 1954 to register the name of the City of Milpitas; his appointment of the first Planning Commission; his service on both the Water and Sewer Boards for eight years; his being a charter member of the Rotary Club; and his career in the motel business, real estate, and insurance. Tom Evatt accepted the proclamation from Mayor Esteves and received a standing ovation from the audience. Mr. Evatt expressed his appreciation for being acknowledged for his service to the City, commenting that he was really surprised at how the City had grown into a nice city.

Santa Clara County Supervisor Pete McHugh said that as a proud resident of Milpitas and a proud member of the Milpitas Rotary Club, he wanted to thank Mr. Evatt on behalf of the people of Santa Clara County for his role and presented Mr. Evatt with a plaque. Supervisor McHugh also gave Mr. Evatt a pin adopted as a symbol of the City.

Milpitas Rotary Club Member and former District Governor Denny Weisgerber, along with Rotary Club President Celia Salazar, read a letter of commendation from the Rotary Club commending Mr. Evatt on the work he did in the incorporation of the City, for his work on the Milpitas Development Association, and for service with the first Milpitas Fire Department. Mr. Weisgerber said the Rotary wanted to honor Mr. Evatt for being one of the charter members of the Milpitas Rotary Club and wished him all the best.

Mayor Esteves announced a brief recess for refreshments in Mr. Evatt's honor.

#### **RECESS**

Mayor Esteves recessed the Council meeting at 7:23 p.m. The City Council meeting reconvened at 7:47 p.m.

#### **CITIZENS FORUM**

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

There were no speakers.

#### **ANNOUNCEMENTS**

City Manager Thomas Wilson reminded the Council and the public of the special ceremony to remember the September 11<sup>th</sup> tragedy that would be held at the Civic Center complex beginning at 7:30 p.m. at City Hall and encouraged everyone to come.

Vice Mayor Dixon reported that last Friday she represented the City at a symposium on the transportation crisis in the valley sponsored by the Santa Clara County Manufacturing Group; also attending were Frank DeSmidt, the Chamber's Government Affairs Director, and Gaye Morando, Chamber Executive Manager. Vice Mayor Dixon announced that in response to her request to the VTA on behalf of the City of Milpitas for a reorganization of the VTA Board, a

subcommittee had been formed (she was not a member) and would be meeting on Thursday at 4:00 p.m. at the County Building. Vice Mayor Dixon reported that the School District Bond Oversight Committee, of which she has been a member since 1996, had completed its charge and had been retired. Vice Mayor Dixon reviewed the success of the bond measure reporting that the committee voted to let the School District decide how to use the remaining funds.

Vice Mayor Dixon said she had received some inquiries about what was left of the Bollywood Restaurant on Calaveras and why was it allowed to continue in its state of disrepair and requested that staff bring back a report, asking that something be done to at least clean up the frontage area on Calaveras. Vice Mayor Dixon requested the Mayor honor on a future agenda Milpitas Chamber of Commerce member Tim Howard for the outstanding job he did on the Art & Wine Summer Festival, noting that this was the sixth year Mr. Howard had served as Chair of the event. Mayor Esteves said he would gladly honor the request.

Mayor Esteves said he wanted to join the Milpitas Chamber of Commerce in recognizing and thanking all the volunteers for the Art & Wine Summer Festival, noting that the Chamber held a thank-you event last week.

## **AGENDA**

MOTION to approve the agenda, including Item 6A on the supplemental agenda, as submitted.

M/S: Polanski, Dixon.

Ayes: 5

## **CONSENT CALENDAR**

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar. There were no requests.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as submitted in accordance with the staff recommendations.

M/S: Gomez, Livengood.

Ayes: 5

## **\*5. Appointments**

Approved the following appointments and re-appointments to Commissions as recommended by the Mayor:

### Arts Commission

- Move Shalini Gupta from Alternate 2 to fill vacancy created by Julie Cherry's resignation, with a term to expire October 2006.
- Appoint Donine Ettinger to fill the vacancy in the Alternate 2 position, with a term to expire October 2004.

### Bicycle Transportation Advisory Commission

- Move Rene Briones from Alternate No. 1 to fill vacancy created by Keith Scott's resignation with a term to expire August 2006.
- Move Nawal Starojewic from Alternate No. 2 to Alternate No. 1 with a term to expire August 2004.

### Recycling and Source Reduction Advisory Commission

- Move Jo Lynn Andrade-Bunnell from Alternate 1 to fill vacancy created by Sridhar Borra's resignation, with a term to expire October 2004.
- Move Patrick Yung from Alternate 2 to Alternate 1, with a term to expire October 2004.
- Reappoint Romy Dizon, Keith Walker, and John Armando with terms to expire October 2006.

### Senior Advisory Commission

- Move Frances Woodworth from Alternate No. 1 to fill vacancy left by Carlos Fabregas, with a term to expire December 2004
- Move Amanda Santos from Alternate No. 2 to Alternate No. 1 with a term to expire December 2004.

Youth Commission

- Move Joseph Hall and Lindsey Munzel from alternates to regular members with terms to expire October 2004.
- Appoint Julian Hilario to a regular member with a term to expire October 2004.
- Appoint Justin Nguyen to Alternate No. 1 with a term to expire October 2004.
- Appoint Aditya Ullat to Alternate No. 2 with a term to expire October 2004

**\*7.  
Gateway Feature  
(Project Nos. 8146 and 4133)**

Adopted Resolution No. 7344granting final acceptance and releasing the contractor's bond for the Gateway Feature at Tasman and Alder (Project No. 8146 and 4133).

**\*8.  
LIUNA MOU**

Adopted Resolution No. 7345approving an initial Memorandum of Understanding with LIUNA (Mid-management and Confidential Employees Unit) for the period September 3, 2003, through June 30, 2004.

**\*9.  
Singley Area Street  
Rehabilitation-Phase II  
(Project No. 4200)**

1. Approved amendment No. 4 to the agreement with Design Engineers Group with a not-to-exceed cost of \$5,100.
2. Authorized the City Manager to execute the amendment, subject to approval by the City Attorney as to form.

**\*10.  
Milpitas Library  
(Project No. 3394)**

Authorized the City Manager to execute the agreement amendment with Nolte Engineering to perform engineering studies, precise plans, and detailed streetscape plans for the entire length of Main Street as part of the Midtown specific Plan, in the amount not-to-exceed \$19,500, subject to approval as to form by the City Attorney.

**\*11.  
2003 Street Slurry Seal  
(Project No. 4182)**

Authorized the City Engineer to execute a change order in the amount not to exceed \$10,000 to Bond Blacktop, Inc. for the slurry seal treatment to Ferreira Court.

**\*12.  
Interim Senior Center  
(Project No. 8151)**

Awarded the Construction Contract for the Interim Senior Center Site Improvements to Joseph J. Albanese, Inc. in the amount of \$75,581.18.

**\*13.  
Miscellaneous Vendors**

Approved the following purchase requests:

1. \$9,000.00 to Konica Business Machines for annual maintenance and supplies for the three large shared copiers at City Hall. (Funds are available in the Non-Departmental operating budget for this service.)
2. \$9,700.00 to Keyser Marston Associates for professional services to re-assess market timing for building up of business parks and Class A office building developments in various locations within the City's Redevelopment Agency for the Planning Department. (Funds are available in the Redevelopment Agency fund for this service.)
3. \$36,852.94 to Preston Pipelines for the emergency repair of two water lines, a reclaimed water line and a recycled water main, on McCarthy Blvd for the Utility Maintenance Division. (Funds are available from the Public Works operating budget for this service.)

**\*14.  
Payroll Register**

Approved the Payroll Register for the period ending August 9, 2003, in the amount of \$1,657,922.18.

**PUBLIC HEARINGS**

**1.  
Vesting Major Tentative Map  
1405 Kennedy Drive**

Acting Planning Manager James Lindsay reviewed the request of The Riding Group to subdivide a 3.6-acre parcel on the north side of Kennedy Drive at Fanyon Street into 19 single-family residential lots that currently contains the Church of Jesus Christ of Latter Day

## **The Riding Group**

Saints. Mr. Lindsay noted that the church has been vacant for approximately two years and the church would like to sell the property to The Riding Group whose intent is to subdivide the property into the 19 lots. Mr. Lindsay said this request was pursuant to the State's Subdivision Map Act, which provides for subdivision of land when the subdivision is consistent with the jurisdiction's General Plan and Zoning regulations. Mr. Lindsay described the project and reported that an environmental assessment was completed and found all the impacts could be mitigated. Mr. Lindsay reported staff received numerous responses from the public with many requesting that the church building remain and another be church allowed to move in. Mr. Lindsay stated for the record that four additional responses were received since the Council's packets were sent out and copies had been provided to the Council this evening. Mr. Lindsay reported that staff recommended that the Initial Study be found complete, the Mitigated Negative Declaration be adopted, and the Vesting Major Tentative Map be approved subject to the Findings and Special Conditions noted.

Mayor Esteves noted that in addition, a street name was also being recommended. Mr. Lindsay reported that the Planning Commission (at its meeting on August 27, 2003) recommended the name "Topham Court."

Vice Mayor Dixon commented she had been told that when a Mormon Church no longer uses a building, their religion doesn't allow another religion to inhabit that building. Mr. Lindsay responded that staff was told by The Riding Group that they have to demolish the church and will not allow another denomination to occupy the building, noting that even the developer was not allowed in the church building and the church would be doing its own demolition.

Councilmember Gomez asked for confirmation that as long as the property is consistent with the General Plan, the City really doesn't have much say what can be done with the project. Mr. Lindsay responded that was correct.

Mayor Esteves opened the public hearing and invited comments, requesting that speakers limit their remarks to two minutes or less and only speak once on this agenda item.

Tom Quaglia, co-owner of The Riding Group, the applicant, said he was present to say they had worked hard on this project, they agreed with the staff report, and the General Plan and Zoning were in place. Since Mr. Quaglia was the applicant, Mayor Esteves asked him to hold his comments until after the public had spoken, noting that he would have more than two minutes to speak.

Jeff Hewitt said he and his wife live in the area, their home is directly adjacent to the church with their backyard facing the church; he had no objection to what he had seen the developer present; however, earlier this evening the Mayor talked about concern for the environment in Milpitas; one of the things making Milpitas what it is was the spiritual environment of Milpitas; his biggest concern was eliminating a place of worship; he understood the Mormon Church might not want the building itself used as a church but he thought they would have no objection to the property being used for a spiritual purpose; and he hoped that the Council will take into careful consideration that we are getting rid of a place of worship in the community.

Lekha Shankla said she has been a resident for 15 years, she and her husband would like to keep the church as a church, it should be given to another church, they have raised their kids here, another church should have a chance, when they bought the house, they liked the open space and weren't told there would be housing in the back, she felt it was not fair, was concerned over having a two-story house with people looking into her backyard, and she was a resident and preferred her privacy.

Emmy Troug said she lives on Kennedy and when she bought her house, she really liked the environment, now everything will change, she didn't want a big house next to her because she was next to the church, she didn't want a two-story house next to her house, was concerned for her privacy, and hoped that there would not be a two-story house next to her.

Bob Desai said he was a 15 year resident and lives next to the church property, was concerned for congestion in that area because at school time there is quite a lot of traffic, the church was the main thing, we should have worship and religious beliefs to pass on, and was very concerned the church was going away.

Gloria Appleby said her backyard goes up against this project, she purchased her home five years ago with a pool and was pleased she could swim in privacy, but now she hears there may be a two-story house going up, she was not happy about this project, she wouldn't be so opposed if it was a one-story behind her but not a two-story house.

A lady who said she lives on Simas Drive, bought her home eight years ago, it is a small one-story home and if two-story homes are built, she won't have any privacy.

Mayor Esteves asked if anyone else wished to speak. There were no requests. Vice Mayor Dixon offered a motion to close the public hearing; Councilmember Polanski seconded the motion. City Attorney Steve Mattas suggested the Council may want to hold the hearing open while the applicant speaks. Vice Mayor Dixon and Councilmember Polanski withdrew the motion to close the hearing.

Tom Quaglia, The Riding Group, San Jose, commented when they first started working with the church, there were so few properties that have the zoning in place and this property was unique; they looked hard and discussed it with staff and they made the decision that it was better to blend the project with the neighborhood with the existing lotting already anticipated for this site based on the General Plan and come through with the site development approvals to meet the R1-6000 standards; it was a decision they made to not increase the density and to dovetail into the neighborhood; when they held neighborhood meetings, they explained their intent to blend into the neighborhood; and they will be putting street trees in at every lot and would be putting in two to three trees along the property lines at the rear. Mr. Quaglia said they were pleased with the straight lot subdivision, were proceeding with the design, construction would start in the Spring, and it would take about 14 months to complete. Mr. Quaglia further stated they had read the staff report, agreed with the conditions, asked for the Council's support, and said he was available to answer questions.

Mayor Esteves inquired if there were any additional speakers.

Christine Mueller said she lived against this project, commented on how Milpitas has really tried to be environmentally friendly and residents care about the environment, her concern about building 19 homes was that it would bring in more people, create more pollution, more cars, and more congestion. There were no further speakers.

MOTION to close the public hearing.

M/S: Dixon, Polanski.

Narandra Shankla said he lives on Simas Drive and his concern was a lot of people didn't get the notices or don't pay attention to what kind of notices they get and they may be against this proposal. Mr. Shankla further stated that he thought The Riding Group should resend the notices again so they will not know the details about what is going on because there were not enough people here to oppose this.

VOTE ON MOTION to close the public hearing: Ayes: 5

Vice Mayor Dixon, addressing Mr. Quaglia, said she assumed they went through the notification process of the neighbors. Mr. Quaglia responded they were required to give a 300 ft. minimum notification; they went a little farther for both the Planning Commission and City Council meetings; in addition, he sent out notices himself and invited everyone to a neighborhood meeting. Vice Mayor Dixon asked how many attending the neighborhood meeting. Mr. Quaglia responded eight; in addition, he talked to five or six other individual

households. Vice Mayor Dixon inquired if the homes would be two stories. Mr. Quaglia responded that hadn't been decided yet but will be designed to the R1 Standards. .

Councilmember Polanski said he met with The Riding Group and saw the project prior to this meeting, she watched the Planning Commission meeting when this was before the Commission, and she heard some of the comments from the public. Councilmember Polanski further stated that one of the questions that came up, and maybe staff could answer it, concerned traffic mitigation and impact on the schools. Mr. Lindsay responded there was a traffic impact analysis completed for the project showing a change to the neighborhood of about 13 additional a.m. peak-hour and 17 additional p.m. peak-hour trips as there were no am/pm trips coming out of the project when it was a church. Mr. Lindsay explained that the project would be subject to school impact fees.

Councilmember Polanski commented on the number of students, projected at .5 students per household, the project would generate, noting that it is across the street from Burnett Elementary School; however, the past few years the School District had experienced declining enrollment (noting that the Milpitas Post had said quite the opposite) and each additional student also helped pay the costs of education. Councilmember Polanski said she has lived off Piedmont Road near the Hillcrest Development for 27 years; when she moved to Milpitas, a community college was promised on that site and instead Shapell built 699 homes, which has been a wonderful addition to the community. Councilmember Polanski further stated she lives in a two-story home next to a one-story home and never had any complaints from her neighbor; she was very impressed with this project and how it was blending into the community and not coming in and completely changing the neighborhood; and the City was always looking for housing stock.

Councilmember Gomez inquired how many trips were generated on Kennedy right now. Mr. Lindsay said he didn't have that information handy. Senior Transportation Planner Joe Oliva offered that Park Victor has 10,000 vehicle trips per day; Kennedy was much less than that, probably 4 to 5,000 trips.

Councilmember Gomez said he noticed the developer was paying park fees and inquired if those were required to be used within a certain area. Mr. Lindsay responded they were dedicated park fees and could only be used on City parks.

Mayor Esteves inquired when the church was operating, how many members attended and generated traffic. Mr. Lindsay responded there was considerably more traffic on Saturday and Sunday when the church was active; with the proposed project, the trips would be spread out more throughout the week. Mayor Esteves asked if in that general neighborhood there were two-story homes. Mr. Lindsay responded there were quite a number of two-story homes. Mayor Esteves asked Mr. Lindsay to explain the public benefit of the project. Mr. Lindsay explained the public benefit stating that the project would provide additional quality homes to help with the housing shortage.

Councilmember Livengood commented that the residents present made a couple of valid points that this project will have some impact on their quality of life and it will mean the loss of a church. Councilmember Livengood said he had not seen this project before it got on the agenda, the issue that bothered him was once a church leaves, it probably will never come back; the decision to no longer use this church wasn't the City's decision; he would like them to stay but the church made its decision; and now the Council is left with the decision as to what to do with the land. Councilmember Livengood further stated he thought the proposed use was a better use than what could go there; the neighbors were getting single-family homes, which was much better than the projects being approved for other parts of the City; this project proposed 19 homes on over three acres when some other projects had 19 homes on one acre; and while he understood the concerns, this was a better project than what might go in there in the future. Councilmember Livengood asked that the developer do his best to minimize the impacts on the current residents, realizing that all concerns can't be mitigated, but he hoped the developer would work with the neighbors towards minimizing those

particular impacts but in the long run, this was probably better than most projects that could go in.

Vice Mayor Dixon said she echoed Councilmember Livengood's comments and shared her own experience living in Milpitas over 27 years with a backyard adjacent to a church. Vice Mayor Dixon also commented, as Councilmember Polanski had brought up, on the promise of a community college in her neighborhood, the original proposal by Shapell to build over 1,300 homes on the property, which was reduced to 699 homes, and the success of the project to which she gave credit to the developer, Shapell. Vice Mayor Dixon asked the developer if possible to use 24 inch specimen trees and nothing less than 15 gallon be used, commenting that this was something the residents could work with the developer to accommodate and address some of the concerns. Vice Mayor Dixon said it was always hard to see a church leave but Councilmember Livengood was right, 285 condos were just approved on six acres, and the impact could be incredible. Vice Mayor Dixon further stated that although she shared the concerns, the alternative could be far worse, these will be quality homes on good size lots and will not detract from the quality of life.

Mayor Esteves said he shared the thoughts as well; on the other hand, the City still has the hillside ordinance and he still supported the hillside ordinance and keeping the hills; this will help address the housing issue, he was still proud that we still have the hillside ordinance and keeping our hillsides green.

MOTION to:

1. Find the Initial Study to be complete and adopt the Mitigated Negative Declaration; and
2. Approve the Vesting Major Tentative Map and recommended street name, subject to the Findings and Special Conditions listed in a separate attachment.
3. Request that the developer work with the residents with respect to planting trees.

M/S: Dixon, Polanski.

Councilmember Livengood requested the developer pay special attention to noise and dust during construction and pay attention to the quality of life issues; be extra careful that during the construction, special attention is paid to those issues.

VOTE ON MOTION:

Ayes: 5

**2.  
CDBG Funds Reallocation  
& Amendments to FY 03/04  
Action Plan**

Principal Housing Planner Felix Reliford reported the Council had allocated \$200,000 towards the improvement of the existing Senior Center at 160 North Main Street during the Community Development Block Grant (CDBG) cycle for FY 2002/2003; since that time, several actions have been taken by the Council, which included approving CDBG funds to provide modulars and on-site improvements at the interim Senior Center located at 540 South Abel Street; to date approximately \$68,000 has been spent on the existing Senior Center; approximately \$128,000 remains for the project; based on the Council's approval of the modulars and site improvements, staff reviewed and assessed additional improvements to enhance the interim Senior Center, which include 1) enlarging the kitchen area, 2) expanding the class and game room area, 3) relocation of storage and staffing offices, 4) roofing repairs, 5) improved ADA accessibility, and 6) revised signage, with a total cost estimate of \$107,000; and staff was recommending the Council reallocate the \$128,000 balance from the existing Senior project to the interim Senior Center project. Mr. Reliford further reported that additional CDBG funds would be available during the next fiscal cycle if the Council chose to provide additional funding for the existing Senior Center; and part of the approval process required an amendment to the Action Plan to reallocate the resources

Vice Mayor Dixon congratulated staff for coming up with the money, which would be put to good use at the interim Senior Center, and commented that the City is in its 5<sup>th</sup> year of being a HUD entitlement City, which means Milpitas gets more money than being a part of a Joint Powers Authority.



Mayor Esteves said it was his understanding that this money had to be spent by a certain time. Mr. Reliford responded the Mayor was correct.

Mayor Esteves opened the public hearing and invited comments. There were no requests.

MOTION to close the public hearing.

M/S: Dixon, Polanski.

Ayes: 5

MOTION to (1) approve the reallocation of CDBG funds in the amount of \$128,000 from the existing Senior Center for improvements to the Interim Senior Center site and approve a budget transfer in the amount of \$128,000; and (2) approve the amendments to the Action Plan incorporating the reallocation of CDBG funds for the Interim Senior Center site.

M/S: Dixon, Polanski.

Ayes: 5

**3.  
VTA/VTP 2020 Long Range  
Transportation Plan**

Principal Transportation Planner Joe Oliva, using a PowerPoint presentation, reviewed the VTP 2020 planning process, explaining that it was adopted by the VTA Board in 2000, was updated every three years, it fit into the overall San Francisco Bay Area MTC nine County Region Long-Range Transportation Plan, outlined the public outreach that had been done, and reviewed the Milpitas list of projects that included the Calaveras Boulevard Bridge Widening, the Montague/Great Mall Capitol Avenue Urban Interchange, the Dixon/Milpitas Intersection Improvements, and the Dixon Landing Road Widening. Mr. Oliva reported the recommended priority order was (1) Calaveras Boulevard Widening; (2) Montague/Great Mall-Capitol Avenue; (3) Dixon/Milpitas Intersection; and (4) Dixon Landing Widening.

Mr. Oliva further reported that the Community Advisory Commission and the Transportation Subcommittee concurred with the staff recommendation; however, the Planning Commission held a public hearing and recommended items 2 and 3 be switched.

Councilmember Gomez, referring to the Planning Commission's priority recommendation, said he was trying to understand the reasons for their switch. Mr. Oliva responded staff felt the top two projects would fit the criteria and compete the best of all the projects and was unsure why the Planning Commission chose as it had.

Vice Mayor Dixon said she watched the Planning Commission meeting and suggested staff assist the Planning Commission by providing more information from the VTA and explain that this is a "dog-eat-dog" competition with the County, there are thousands of projects on the table right now, and the competition is such that Milpitas has finally reached the point where it is next in line and if we were to do what the Planning Commission wanted to do, we would lose out on major funding. Vice Mayor Dixon also said she fully approved and supported the priority presented by staff.

Councilmember Polanski, referring to the Planning Commission prioritization, said she also watched the meeting and there was a misunderstanding with one of the members of the Commission thinking that Great Mall and Capitol was not really in Milpitas. Councilmember Polanski said she also attended the CAC meeting and was very impressed with the questions asked and the strong concern about bike lanes and safety.

Mayor Esteves said he was in favor of staff's recommendation but wanted to make sure that staff would still pursue the Connector Study that would connect I-680 and I-880.

Mayor Esteves opened the public hearing and invited comments.

Rob Means stated there were two points he would like to make: 1) referring to spending \$87 million, said he felt it would benefit the 2/3s of Milpitas residents that drive, and for that amount of money a PRT system could be put in place that would serve all Milpitas residents;

and 2) while widening the roads seemed like the most reasonable approach, VTA was in deep financial trouble, the big rollover in world oil production was happening this decade and it will fundamentally change the economics of oil and MTC was in violation of Federal Transit rider-ship rules, they were about ready to lose some Federal money, and this plan does nothing to address their situation, nothing to overcome the problems and help them comply with Federal rules.

MOTION to close the public hearing.

M/S: Polanski, Livengood.

Ayes: 5

MOTION to approve the following prioritization:

- Calaveras Boulevard Widening and Operational improvements
- Montague Expressway/Capitol Avenue Grade Separation
- Dixon Landing Road/North Milpitas Boulevard Intersection improvements
- Dixon Landing Road Widening

M/S: Livengood, Polanski.

Councilmember Polanski requested staff clarify, with respect to alternative transportation, that this plan met certain specifications. Mr. Oliva responded the VTP 2020 was a long-range transportation-planning document, which included several elements (public transportation, local streets and county roads, expressways, freeways, bicycle facilities, pedestrian facilities, etc.); the elements being considered for prioritization were the local streets and county roads portion.

VOTE ON MOTION.

Ayes:

## **JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

### **RA1. CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 9:02 p.m.

### **RA2. ROLL CALL**

Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez, Livengood, and Polanski.

### **RA3. MINUTES**

MOTION to approve the Redevelopment Agency minutes of August 19, 2003, including joint meeting with the City Council, as submitted.

M/S: Dixon, Polanski.

Ayes: 5

### **RA4. AGENDA**

Councilmember Livengood requested item RA6 be removed from the Consent Calendar for discussion. Mayor Esteves said item RA7 could remain on Consent but requested staff provide some financial ratios to tell us where we are and provide more details in the work plan on the capital projects not expected to be completed this year.

MOTION to approve the agenda and Consent Calendar as amended by the removal of item RA6 and the additional information requested by Mayor Esteves for item RA7.

M/S: Livengood, Dixon.

Ayes: 5

### **RA5. SERIES 2003 BONDS**

City Manager Thomas Wilson reported this item was to follow up on the last meeting's work, which was to review conceptually the 2003 Bond Refunding and New Money, and to finalize those plans and move forward with recommendations for considering the Financial Plan and for adoption of the necessary resolutions to prepare for issuance of 2003 Bonds. Mr. Wilson said he would first like to take moment to remind everybody how we are addressing this and what is involved as far as the various components; this was a multi-jurisdictional

effort with the Council wearing a number of hats; the Council served as the Redevelopment Agency and also as the Financing Authority. Mr. Wilson introduced Agency consultants present Don Fraser, Fraser & Associates, Tom Dunphy, Lamont Financial, and Scott Sollars, Stone & Youngberg; David Oster, Bond Counsel was not present; in addition, the two co-managing underwriters, if approved tonight, were UBS Financial Services and First Albany Corporation who were not present.

Mr. Wilson further reported this team has been working for a number of months in providing staff with all of the work that has amended the Agency's financial capacity and brought us to the point to consider tonight some very key financial moves by the Agency. Mr. Wilson explained the major components of the Series 2003 Bonds that included the refinancing of the 1997 and 2000 Bonds at approximately \$63 million; the initial payments of the Elmwood property acquisition at \$44 million; the library and senior center development and construction at \$50 million; the Midtown infrastructure projects at \$30 million; and the cost of issuance, bond insurance, and underwriter's discount at \$8 million; for a total of \$195 million of new debt.

Councilmember Gomez inquired that as priorities change, would the City/Agency be locked into the projects once the bonds were issued or if there were cost savings, could the money be used for other projects/priorities that may come up. Mr. Wilson responded the simple answer was yes.

Councilmember Livengood inquired if any of the money had been allocated or designated for Terrace Gardens. Mr. Wilson responded that no Redevelopment monies were designated for Terrace Gardens. Mr. King added that in the 1997 Bond issue, there was money set aside for senior housing but was not specifically noted for Terrace Gardens. Mr. Wilson said it was his understanding that \$6 million was set aside for senior housing and conceptually dedicated for the property associated with the DeVries House.

Councilmember Livengood asked how much money was currently designated for the Library in addition to the \$5 million previously set aside from the General Fund. Finance Director Emma Karlen responded currently there was approximately \$3 million generated from the TOT earmarked for the Library project. Councilmember Livengood commented that if the whole thing was to be financed, the costs go up significantly; if we were able to hold on to that money and apply it to the project in the beginning, it would bring the cost of the project down. Councilmember Livengood said he was still very supportive of using that money to keep this project under cost and budget.

Assistant City Manager Blair King reviewed how the annual tax increment fund balances were set up, showing how the annual tax increment flow would be structured so that the Agency can make its debt service and still pay the following expenses on an annual basis – the General Fund administrative reimbursement, the housing set-aside, tax increment pass-through, the ERAF shifts, the annual County payment, and if any money is available, it would be put in reserves and used for economic development opportunities within the project areas. Mr. King reported that the end of this fiscal year, June 2004, staff believed the Agency would have about 40 million in cash and about 8 million in land. Mr. King said staff was moving forward with this program but anticipated in four or five years (2007-2008), based upon growth, the Agency would have the capability of having another new bond issue to fund new projects up to approximately \$70 million.

City Manager Wilson reviewed the recommendations before the Agency.

MOTION to:

1. Approve the uses and bond financing structure for a Series 2003 Tax Allocation Bond.
2. Approve the selection of Stone & Youngberg to serve as Senior Managing Underwriter and UBS Financial Services and First Albany Corporation to serve as Co-managing Underwriters for a negotiated bond.

3. Adopt Agency Resolution No. RA213 requesting the assistance of the Milpitas Public Financing Authority in connection with the financing and refinancing of redevelopment activities and calling for the convening of a special meeting of the Authority.

M/S: Gomez, Livengood.

Ayes: 5

**RA6.  
FY 2002-03 BUDGET  
ADJUSTMENTS**

Councilmember Livengood removed this item from the Consent Calendar. Finance Director Emma Karlen reported Finance was in the middle of closing the City and Redevelopment Agency books for Fiscal Year 2002-03, all departments and fund budgets had been reviewed and it was determined that there was a deficit that needed to be recovered from the fund balances, and included in the Council's packets was a staff report and summary showing the necessary budget adjustments and where the funds were coming from. Ms. Karlen further reported the overall fiscal impact of the budget adjustments was a net of \$955,000 and there was no impact on the General Fund.

Councilmember Livengood inquired about the \$60,000 and \$58,000 transferred into the Public Works Department. Ms. Karlen responded the \$60,000 was for emergency tree work the City crews did for Lighting and Landscape Maintenance District 95-1 at McCarthy Ranch and the \$58,000 was for positions related to the Redevelopment Agency that were included in the budget but the allocation wasn't funded sufficiently from the Redevelopment Agency. Councilmember Livengood said he asked these questions because the City is constantly telling people we can't use Redevelopment Agency funds except for Redevelopment-related things and when transfers are made, they aren't always clear to the public as to why; he wanted to be sure that every time this is done that it is justified because he didn't want to be in a position where people think every time we need money we can go to the Redevelopment Agency.

MOTION to approve the Fiscal Year 2002-2003 year-end budget appropriations and transfers as itemized in the budget change form included in the Agency/Council/s agenda packets.

M/S: Livengood, Gomez.

Ayes: 5

**\*RA7.  
FINAL BUDGETS**

Noted receipt and filed the 2003-2004 Final Budget and the 2003-2008 Final Capital Improvement Program Budget.

**\*RA8.  
CIVIC CENTER PROJECT**

Approved purchase orders in the amount of \$16,406 included in the summary sheet and noted receipt and filed progress report on project closeout and 3<sup>rd</sup> and 4<sup>th</sup> floor improvements.

**RA9.  
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 9:44 p.m.

The City Council meeting continued.

**REPORTS OF OFFICERS & BOARDS**

**4.  
Pre-Kindergarten Education Kit  
Pilot Program**

Mayor Esteves reported at the last City/School meeting, it was suggested that City staff, in cooperation with the Milpitas Unified School District, explore a pilot "pre-kindergarten education kit" program to develop some curriculum and materials that would be distributed to parents of pre-kindergarten children with the goal of closing the academic achievement gap by providing information to the parents of pre-school children who do not have access to pre-school education due to financial hardship. Mayor Esteves further reported that he and Vice Mayor Dixon were requesting that staff be allowed to work with the School District to prepare a detailed plan, cost estimates, and curriculum and come back to the Council for final approval.

Vice Mayor Dixon commented that she and the Mayor meet on a regular basis with the School Superintendent and the President and Vice President of the School Board and what was missing out of this was something else they would be proposing to the Council. Vice Mayor

Dixon said that they would be proposing a resolution of partnership between the City and School District and Mr. Mendizabal had brought this to the group some time ago; there are some cities that have entered into a resolution of partnership with their school districts to clearly define a work plan, relationships, and previous and future goals and commitments; she had noticed over the years that every time somebody new comes on board the first thing they always ask is what does the City do for the School District; so this would clearly define what that relationship is and would be coming back within the next meeting or two; this particular pilot program was an example of something we could look into; they were not asking for a financial commitment tonight; it has been proven that this time, especially around the age of four before a child enters kindergarten, that if that gap isn't made up, a majority of them never make up that gap.

Mayor Esteves reiterated that pre-kindergarten is critical in terms of child education.

Penny Bragg, Director of Curriculum and Assessment, Milpitas Unified School District, commented that students are entering kindergarten with a huge range of abilities, explained the goals of the pilot program stating that they were hoping to put together a package and curriculum to support parents of four-year olds as they begin to make that important transition and enter school; they were committed to working together with the City in establishing this relationship and partnership and this pilot program was one of the ways they were looking forward to working together.

Mayor Esteves commented that the first opportunity to implement something would be Spring next year. Ms. Bragg said they were looking at what needs to be contained within this in order to make the most use of the funds.

Councilmember Polanski said she appreciated the opportunity to work on this partnership, pre-kindergarten was crucial for students to be successful, she thought this was an excellent idea to explore and see the feasibility of it, and she thought it was an excellent start to look at future partnerships.

Councilmember Gomez inquired when starting a new educational program like this, how long before you get some measure or data to evaluate whether it is successful. Ms. Bragg responded a way to assess the success would be built into the program. Councilmember Gomez asked how long will you have to measure. Ms. Bragg responded the first year of implementation should provide baseline data and from that point the program can be improved and refined.

Councilmember Livengood commented that the City doesn't have the same expertise the School District does in educating kids so he thought it sounded like this was talking about staff and he assumed it meant School District staff. Ms. Bragg responded yes, for the most part, the staff was already on board and they have a team they can put together based on current staff.

Councilmember Livengood asked what role the City would play if the program would be staffed by the School District. Mayor Esteves responded in addition to the School District staff, the City provides child care services and so in terms of the distribution of materials, the City's experience with child care providers would help in reaching out to all areas of the population. Councilmember Livengood said then the City would augment School District staff using our preschool facilities and expertise. Ms. Bragg said the City has more knowledge in reaching out into the community to people with four-year old children than they have and that was where the partnership came together. Councilmember Livengood commented that the School District already does a good job of communicating through its students and asked if there was a time limit on the program. Ms. Bragg responded it depended on the funding; they were looking at a four or five year program and was something they would like to continue.

MOTION to authorize staff, in cooperation with the Milpitas Unified School District, to explore the feasibility of a pilot “Pre-Kindergarten Education Kit Program” and to direct staff to return with a resolution of partnership between the City and the School District.

M/S: Dixon, Polanski.

Ayes: 5

## UNFINISHED BUSINESS

### 6. Campaign Code of Ethics

Acting Planning Director Tambri Heyden reported that the Community Advisory Commission’s 2003 Work Program included conducting a study on local campaign ethics, the CAC completed it study, and representatives were present to present a proposal to increase public awareness of campaign ethics. Ms. Heyden introduced CAC members Al Garcia and Craig Ranker to present the proposal.

Al Garcia, CAC Chair, said they appreciated the opportunity to speak to the Council on a topic they felt important to the community. Mr. Garcia presented background information on the study, reported that four members were designated as a subcommittee led by Ray Maglalang, in the audience this evening was Tom Shanks, a Professor of Communications and a Scholar at the Markkula Center, and turned the presentation over to Craig Ranker to present the findings of the subcommittee.

Craig Ranker presented an overview of the proposal to build voter confidence through ethical conduct reporting that the proposal included their objective to promote, through a program of ethics education and policy, increased voter participation in elections, higher levels of public confidence in elected officials, and high standards of civic conduct. Mr. Ranker said the proposal also included some options for further action, was all about education, and explained issues of why an ethical conduct policy is needed, what can be done, and the CAC’s recommendation that the Council adopt a campaign code of ethics, similar to the City of Santa Clara, the City employ the services of a qualified professional to conduct ethical conduct workshops which would be mandatory for candidates and assist in creating an ethics policy for the City, and that the Council request the services of a qualified professional such as Tom Shanks, Ph.D., Scholar at the Markkula Center for Applied Ethics at Santa Clara University.

Councilmember Livengood commented that there is a difference between a campaign ethics policy for candidates and a code of ethics policy and thought if we are going to have an ethics code for conduct, it should also be for sitting officials (those who get elected), employees, commissioners, volunteers, etc.; if that was the direction being proposed, he liked the fact that it would include everybody; he also liked the idea of having a workshop but expressed concern if somebody doesn’t go to the workshop, there wasn’t much that could be done (you couldn’t take their name off the ballot) but assumed they could suffer some public fall-out. Mr. Garcia commented there was a component recommended that some sort of “seal of approval” be given that somebody could put on their campaign literature to show that they graduated from the program. Councilmember Livengood commented that the other issue was if there is a perceived violation of the policy, was there a commission envisioned or somebody to go to for grievance. Mr. Ranker responded there could be; some cities have gone that far; that was something that could start small and grow in to something we feel comfortable with; and it could be dependent on the recommendation that comes back. Councilmember Livengood said he though an ethics commission was probably a good idea but questioned who would appoint them, he appreciated what he saw and was particularly glad that the policy being talked about would apply to everybody.

Mayor Esteves said this was a very significant project for the City of Milpitas, was a big step towards a good cause, but inquired how would alleged violations be addressed, especially just before an election. Mayor Esteves further stated those were critical issues and asked how do you insure that candidates would really conform to make it effective. Mr. Ranker responded there were mechanisms to put in place and various ways to effect enforcement; he personally felt the educational aspects were much stronger so people understand how to more effectively

conduct a campaign from both sides of a voting booth and to understand what is ethical and what is not.

Councilmember Polanski said that as the liaison to the CAC, she wanted to thank both Mr. Garcia and Mr. Ranker and Ray Maglalang for being here and all the hard work and effort they all put forth. Councilmember Polanski commented that in all the research and discussion at the CAC meetings, the important of educating the public and getting people out to vote and understanding the election process was crucial. Councilmember Polanski commented she knew there were some costs associated when you bring on a professional but felt it was worth it, and said she would like to hear from Mr. Maglalang, who attended some of the ethical workshops in Santa Clara.

Ray Maglalang said when he first attended a City of Santa Clara Ethics Seminar, he was amazed how many people attended; he attended a series of workshops on how you identify what is ethical and what is not ethical and how you present yourself as a true candidate to give the public more knowledge. Mayor Esteves said he appreciated the efforts because this can promote good government.

Councilmember Gomez said he was glad Councilmember Livengood clarified that the CAC felt this should extend beyond campaigns and include employees, commissioners, elected officials, and volunteers because ethical behavior doesn't stop once a campaign ends and anything we do now can affect the campaign that occurs four years from now. Councilmember Gomez said he wanted to talk about some behavior that concerned him and know how Mr. Garcia and Mr. Ranker felt about this and passed a paper to Mr. Garcia and read the text on the paper, noting that it had been posted to a web site and a copy left at his door. Councilmember Gomez asked Mr. Garcia if he would assume the person in the photo was him. Mr. Garcia responded he would not make that assumption and certainly did not agree and would not support anything like this. Councilmember Gomez proceeded to ask more questions about the cartoon but substituting a hypothetical situation of a handicapped Councilmember in the cartoon and asked Mr. Garcia if he thought that would be ethical. Mr. Garcia said he didn't think it was ethical. Mayor Esteves interrupted saying that these men were representing the CAC and just presenting a proposal. Councilmember Gomez said it was important for him to understand what they consider ethical. Mayor Esteves said he didn't think the CAC members were ready to judge whether a certain act was ethical or not and he didn't think they should go into that now. Councilmember Gomez said he would like to ask them now. Mayor Esteves said when they come back with a code of ethics, the group should be able to identify whether or not something was ethical or not but he certainly didn't think they were prepared to do that tonight because they were just proposing an education program and a code of ethics.

Councilmember Polanski commented that these two gentlemen were representing the CAC to make the presentation, it wasn't fair to ask them these questions, but it was something they could take back to the Commission to work on.

Councilmember Gomez said he still would like to finish his series of questions and if they don't know, they could just say so; he wanted to know what was considered ethical and what was not. Mayor Esteves said right now he didn't think they were able to identify what was ethical or not because they were just proposing a program.

Councilmember Gomez asked for confirmation that the CAC had not discussed any particular literature and said it was unethical? Mr. Garcia said they decided they would not do that because that was not the intent; the intent was to develop an educational program for people who want to be candidates but most especially for the voting public to re-instill confidence as it was very disturbing for them to hear the negative comments and apathy of the voting public; he hoped that more people would take a look at this and be disturbed and thought an educated public would also be disturbed by it. Councilmember Gomez asked if a Planning Commissioner under a pseudonym drew that, would an ethics program deal with something like it? Mr. Garcia said he would prefer not to answer that at this time because he didn't know

all the facts. Councilmember Gomez said he wanted to make sure that an issue like that would be covered under an ethics program like what was being proposed and that it strictly won't focus just on attack campaigns.

Councilmember Livengood said from his perspective, he really liked the way the CAC started its presentation with issues dealing not only with people who run campaigns but people who win elections and people who get appointed; his input was that they were on the right track, the kind of issues Councilmember Gomez was bringing up, he should bring up as part of that discussion at the appropriate time; he liked the direction this was moving and wanted to make sure it was broad enough to cover not only candidates but those who are elected and that was where he thought Councilmember Gomez was also coming from.

Professor Tom Shanks, Santa Clara University, said he thought the Council asked wonderful questions and the questions were all things that have answers. Dr. Shanks commented that the development of any kind of code has to reflect all the constituent groups that you have been mentioning and the way he generally starts the process is to ask the question "when we are at our best -- how are we -- how do we describe ourselves?" Dr. Shanks said you can go through a process to come up with how you are but the mistake made in Santa Clara was that the employees were not active members in the development of the code; if you decide you want it to include everyone, then everyone needs to be involved. Dr. Shanks also commented on some of the questions that were asked, commenting that whenever you start talking about codes, you have to ask if it is covered by freedom of speech or are there other laws and regulations; at some point you have to say something violates our code but you have to do it up front so you know what accountability looks like; his experience was that ethics commissions usually don't do what we want them to do; he thought the effort on education was the way to go; whenever an ethics commission is formed, it just becomes another club to hit somebody over the head with three days before an election; and he thought going with the larger code and figuring out what the values are that Milpitas wants to practice was a better way to go and to think about how do you hold people accountable.

Vice Mayor Dixon asked Dr. Shanks' his thoughts and comments about the Santa Clara Ethics Foundation.

Dr. Shanks responded it goes to enforcement issues, he thought the effort was wonderful because they partner with organizations that hold their members accountable. Vice Mayor Dixon said she was greatly disturbed in the last election because she viewed their participation in the Milpitas election that year as a hit in itself because the charge itself was propagated in a make-believe newspaper the last weekend before the election and they were used; when they were asked, the answer was "it's too late" and that was the problem; over the years, what astounded her was that we are forced to sign that pledge -- but the pledge, to her after this last election, means nothing unless there is a true consequence for one's action. Vice Mayor Dixon further stated she thought public education would probably be paramount in her mind because the public has to be aware of the fine art of politics, and she was looking for good things out of this.

Dr. Shanks commented that Cupertino's ethics policy has a ground rule that says two weeks before an election is the last time a candidate can bring up new charges against another candidate and a community can say these are the rules we are going to play by.

Councilmember Gomez thanked Dr. Shanks and asked if the Santa Clara code would allow the type of behavior he referred to earlier by a commissioner. Dr. Shanks responded what the document the Council had was a general code that covers everybody; what you have to then do is go through a translation of what does each of those statements look like for a commissioner so there was another document that took awhile to develop that takes the code and turns it into a set of practices for commissioners.

MOTION to approve the recommendation from the CAC that the Council adopt a campaign code of ethics, similar to the City of Santa Clara that would cover not only candidates but also



Councilmembers, Commissioners, and employees, and that the City employ the services of a qualified professional to conduct ethical conduct workshops and assist in creating an ethics policy for the City of Milpitas.

M/S: Polanski, Gomez.

Ayes: 5

**6A.  
Art-In-Your-Park Project  
Hillcrest Park**

City Manager Wilson introduced Julie Cherry, representing the Milpitas Alliance for the Arts, who would make the presentation. Julie Cherry said she and Elena Lawson were present looking at the very end of the community input process for the third Art-In-Your-Park project for the Hillcrest neighborhood park. Ms. Cherry commented that as they move forward with this project, they would be bringing a plan to the Council in October for a policy and procedure for the Art in the Park projects and how the City will continue to help them reach out into the community. Elena Lawson, Hillcrest Park representing the Hillcrest neighborhood, thanked the Mayor and Councilmembers who attended several of the meetings that began in February. Ms. Lawson explained the process used that included meeting with the Hillcrest community, drawing up an RFQ, choosing three finalist projects, requesting models from the finalists, receiving input from the larger Hillcrest and Milpitas community, receiving input from City Commissions, receiving a recommendation from the Arts Commission, and appearing before the Council tonight for the Council to help select the final project. Ms. Lawson showed pictures of the three pieces titled (1) Spring Training, (2), Cartwheels, and (3) Hand in Hand Around the Park; the Arts Commission reviewed the three final projects on August 25, 2003, and recommended Hand in Hand Around the Park.

Ms. Cherry reviewed the recommendation before the Council to approve the selection of Hand and Hand Around the Park for Hillcrest Park and the request for the Council to approve a budget transfer of \$3,000 and determine a process for locating the piece, commenting that the artist didn't have a preference as to where it should be located.

Councilmember Polanski thanked the Alliance for the Arts for their outreach on the art project, commented that she loved all three pieces, and she believed the recommended one was very interactive and would be a wonderful addition to the Hillcrest Park. Councilmember Polanski said she would like the Council to give some time and thought on the location and to work with staff on the location rather than making a determination this evening.

Vice Mayor Dixon said she thought a great job was done on this project, people really did get involved in the process, and she loved all three projects. Vice Mayor Dixon asked that some thought be given, because foundry prices were down right now, to putting the Cartwheel project in the Civic Center Plaza, she thought it would make a good addition and would like to see it as the next step for art in the park.

Mayor Esteves thanked the Alliance for the Arts, commenting that he appreciated the process and the effort put forth because it brought credibility to the project.

MOTION to approve the selection of "Hand in Hand Around the Park" piece for Hillcrest Park, approve a budget transfer from the City Manager's Contingency Reserve Fund in the amount of \$3,000 for a matching funds contribution, and determine the location at a later time.

M/S: Livengood, Dixon.

Ayes: 5

**ADJOURNMENT**

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 11:08 p.m.

**The foregoing minutes were approved by the City Council as submitted on September 16, 2003.**

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**Gail Blalock, City Clerk**

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**Date**